



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 28, 2004

Ms. Carla S. Cook  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2004-10837

Dear Ms. Cook:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 215596.

The City of Fort Worth (the "city") received a request for incident reports and 9-1-1 call sheets and audio recordings concerning incidents that occurred at two specified addresses in the city, involving a named individual, within the six months prior to the date of the request. You claim that the requested information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.<sup>1</sup>

As a preliminary matter, we note that a portion of the submitted information does not relate to the individual identified in the request or either of the addresses specified in the request. We find that this information, which we have marked, is not responsive to the present request and need not be released at this time.

With respect to the remaining submitted information, we address your claim under section 552.108 of the Government Code. Section 552.108(a) excepts from disclosure

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<sup>1</sup> We note that the city has erased portions of the audio recordings you have submitted for review. We advise that section 552.301 of the Government Code requires a governmental body to submit responsive information in a manner that permits this office to review the information. *See* Gov't Code § 552.301(e)(1)(D). Therefore, the department risks non-compliance with section 552.301 if it fails to submit responsive information in non-redacted form. Such non-compliance can result in a conclusion from this office that the information at issue must be released. *See* Gov't Code §§ 552.006, .301, .302. With respect to future requests for an open records decision, therefore, we advise the city to submit responsive documents in non-redacted form. *See id.* § 552.3035 (attorney general may not disclose to requestor or public any information submitted to attorney general under section 552.301(e)(1)(D)).

“[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information at issue is all related to a criminal prosecution that was pending on the date the city received the present request. Based on your representations and our review, we determine that the release of the information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). We therefore agree that section 552.108(a)(1) is applicable to the information at issue.

We note, however that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes the location of the offense. *See Houston Chronicle*, 531 S.W.2d at 187; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). With the exception of basic information pertaining to the offenses at issue, which must be released, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. Based on this finding, we do not reach your claims under sections 552.101 or 552.103 of the Government Code.<sup>2</sup> Furthermore, we note that some of the basic information at issue may be excepted from disclosure.

We note that the submitted 9-1-1 call sheets contain the originating addresses of calls to the 9-1-1 system. To the extent the originating addresses contained in the submitted call sheets denote the location of the offenses at issue, the addresses are basic information and are not excepted under section 552.108. However, these addresses may nevertheless be excepted from disclosure under section 552.101 of the Government Code. Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision,” and encompasses information made confidential by other statutes. Chapter 772 of the Health and Safety Code authorizes the

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<sup>2</sup> We note, however, that basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103. Open Records Decision No. 597 (1991). Furthermore, some of the information at issue may be confidential with respect to the general public. *See* Gov’t Code § 552.023 (person has special right of access to information that is excepted from public disclosure under laws intended to protect person’s privacy interest as subject of the information); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when person asks governmental body for information concerning the person himself or herself). Thus, in the event the city receives another request for this information from someone other than this requestor or his authorized representative, the city must ask this office for a decision whether the information is subject to public disclosure.

development of local emergency communications districts. Section 772.318 of the Health and Safety Code applies to an emergency communications district established in accordance with chapter 772, and makes confidential the originating addresses of 9-1-1 callers that are furnished to the district by a telephone service supplier.<sup>3</sup> See Health & Safety Code § 773.318; see also Open Records Decision No. 649 (1996). Thus, to the extent the addresses in the submitted call sheets that are basic information were provided to an emergency communications district by a service supplier pursuant to chapter 772 of the Health and Safety Code, the addresses are confidential and must be withheld under section 552.101 of the Government Code. We note that originating addresses in the call sheets that do not denote the location of an offense are not basic information and are excepted from disclosure under section 552.108(a)(1).

In summary, we have marked information that is not responsive to the present request and need not be released. To the extent the originating addresses of 9-1-1 calls contained in the submitted call sheets are basic information, and were provided to an emergency communications district by a telephone service supplier, such addresses are excepted under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code and must be withheld. With the exception of the remaining basic information, which must be released to the requestor, the city may withhold the remainder of the submitted information pursuant to section 552.108(a)(1) of the Government Code. We note that the city has the discretion to release all or part of such information that is not otherwise confidential by law. Gov't Code § 552.007.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within thirty calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the

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<sup>3</sup> Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

statute, the attorney general expects that, within ten calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within ten calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/jev

Ref: ID# 215596

Enc: Submitted documents

c: Mr. Gregory DeVone  
4250 Hulen Avenue  
Fort Worth, Texas 76107  
(w/o enclosures)